

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES JONATHAN NICOLAU,

Defendant.

4:13CR3064

**PRELIMINARY ORDER OF
FORFEITURE**

This matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 53). The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has agreed to enter a plea of guilty to Counts I, II, and III and agreed to admit to the Forfeiture Allegations of said Indictment. Count I charged the Defendant with conspiracy to distribute methamphetamine, in violation of 21 U.S.C. § 846. Count III charged the Defendant with money laundering and aiding and abetting, in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i) and 2. The Forfeiture Allegation charged the Defendant with using \$3,938 and \$56,120 in United States currency to facilitate the commission of the alleged violations and/or are derived from proceeds obtained directly or indirectly as a result such violations. The Forfeiture Allegation also sought the forfeiture of substitute property pursuant to 21 U.S.C. §§ 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and by 28 U.S.C. § 2461(c).

2. By virtue of said plea of guilty, the Defendant forfeits his interest in the aforementioned currency, and the United States should be entitled to possession of said currency, pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 982(a)(1).

3. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon the Forfeiture Allegations of the Indictment and the Defendant's pleas of guilty, the United States is hereby authorized to seize the \$3,938 and \$56,120 in United States currency.

C. The Defendant's interest in the \$3,938 and \$56,120 in United States currency is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n)(1).

D. The aforementioned currency is to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C. § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official internet government forfeiture site, www.forfeiture.gov, notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the currency in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject currency must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E, above, shall be for a hearing to adjudicate the validity of the Petitioner's interest in the currency, shall be signed by

the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject currency and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have an interest in the currency (properties) to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

ORDERED this 27th day of September, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Court Judge